G.R.S. IX—5]

Previous references. 1922-23 **File No.** 232/22

Cb. 170-18-1, 5 to 8. (CB) **Serial Nos.** /

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for April 1923

SUBJECT

Procedure to be adopted in investing officers with ~~Investigation of~~ Magisterial Powers.

To The Prosecution Branch
The Revenue "
Com. Cir. No. 4962-3
CB. Dy 14-4-23

D 3427
P

G. R. S. III—3]

C.S 232-25

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Extract from page 11 of the Jail notes of Dewan in Kolar Tumkur and Chitaldrug Dts in August 1922

Para 4: Malur Subdivision office

~~xx~~ xx xx

He (the Malur Subdivision officer) is a magistrate exercising first class powers, but the officer, Mr. Ravanitama Naidu, was not invested with first class powers as soon as he was appointed with the result that many first class cases remained undisposed of for a long time. The notification regarding magisterial powers should be issued simultaneously with the notification appointing an officer to such charge in future.

D)

At present appointments are being made in Confidential Branch and copies of notification are sent to the Protection Branch for investing the officer appointed with powers. Not infrequently the copies of notifications are

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not received in time and sometimes no copies are received. Sometimes the copies are sent not to the Confidential branch (Vide my B. T. Kesavulupai's appointment). To avoid this, the Confidential branch may appoint such persons as magistrates, ~~if~~ decided. send a copy to this branch for investing the officer with additional powers. This course will considerably reduce the inconvenience caused by delay in investiture. As far as this branch is concerned, no delay occurs in investiture of powers. Submitted for orders

9/1/25

3) If the ~~principle suggested~~ above is accepted, then there will not be any room for delay. The other alternative is to issue ~~the~~ instructions to the C. B. C. I. to send a copy of the appointment order to the branch.

Yes

9/1

my M. G. Krishnaswamy Rao's appointment as special officer - & my G. Sreenivasa Iyer's appointment as Dt. Md. for first time -

I think seems to be a convenient arrangement.

Yes
10.1.25

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Hed 3
10.1.23

5) Mr Lewis thinks that it would be a convenient arrangement to entrust the investigation of the ordinary powers of magistrates along with the investigation appointing or transferring an Asst. Commissioner to the additional powers which may then be allotted to him.

Mr. Bourne

Lee
10. 1. 23

2 Nov 1923)

Mr Bourne should also be informed of the practice of cancelling the Commission of the Asst Commissioners in case of persons who have not been previously invested with such powers: if the practice is to be continued, his proposal should be made when Counsel is called upon.

Lee

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7) If there are any standing orders on the subject please point out. If any case please quote as under it is usual to consult the Chief Court. In the time of powers what is the practice here in Madras

22.1.25

by

25/1/25

Subd.

8) Go. No. 4. 3066-74/CS 170-18-6 dt 7-8-1919 lays down that recommendations for the investiture of Second and First Class powers should come through the Chief Court

9) The procedure in Madras is not known. The Madras Criminal Rules of Practice is silent on the point.

25/1/25

1) As an exception to the rule laid down in the Go of 7-8-19, Officers appointed Magistrates under the Separation Scheme are invested with II & I Class powers by Govt notification confirming the Chief Court.

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11) Even in other cases, it is the practice at present to invest the Officer, soon after the notification of his posting has issued,

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CS 23-2-

ROUTINE NOTES.

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with the powers he has exercised before, or with 3rd class powers if he has not exercised any magisterial powers at all. In such cases proposals for investiture of higher or additional powers are sent by the Dt Magts through the Chief Court and sanctioned by Government.

IV) If this practice is continued, the procedure suggested in para 5 supra will not perhaps conflict with the G.O. of 7.8.19.

Subd
25/1

13) In the file leading to the above G.O. no specific grounds have been urged for submitting recommendations for the investiture of 2nd & 1st class powers through the Chief Court except that of ensuring uniformity in the practice followed in such cases. Prior to the passing of the above G.O., some recommendations were sent through the Chief Court while others were submitted direct by the Dt Magistrate to Govt. To bring about some uniformity in the procedure adopted, it was laid down that such recommendations in future

mis-is doubtful

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should invariably be submitted through the Chief Court. The intention is probably to obtain the views of the Chief Court as to the capacity of the magistrate to exercise the higher powers in question

The Confidential Branch can notify the withholding of powers of 3rd class, or of a higher class of the officer has already exercised the same. But the difficulty will arise in cases where the officer has to be invested with higher powers for the first time. In such cases, the receipt of recommendations through the Chief Court, cannot be dispensed with, as orders stand. Probably the delay will be communicated, & in such case, the Chief Court is consulted unofficially

Yes Sd

Sd.
1/2

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G.R.S. III—3]

CB 232-22

Routine Notes.

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15) Under the present rule the previous consultation of the Chief Constable is certainly necessary but there does not seem to be much meaning in making the appointment without consultation and then formally consulting. The appointment is in reality made by the Secretary of State. If the Chief Constable and the Watch Committee could be brought to a joint decision either the formality of consultation would be waived or the name of

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When duly sworn appointed to this office must be communicated to the Chief Constable from time to time and their consent obtained to investing them with the class of powers proposed when a necessity arises

4947
5.2.23

2.2.23

2 Ld members)

Yes) Mr Clarke The order we gave him appears to mean that all the Metropolitan Magistrates from time to time have all the powers and duties in any way restricting their powers of the particular class of powers.

(1) Persons holding substantive appointments of Magistrates other than Special Magistrates & Stipendiary Magistrates

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(2) Persons exercising certain powers by virtue of their substantive appointments in their depts with the exception to which the 1st class of cases the appointment empowers the exercise of certain powers — the first mentioned appointment

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C.B. 232-2.

Routine Notes.

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after full consideration of his competence of his right to exercise of powers of his class with which his appt is usually associated. In exemplification is appointed Special Magistrate and Judge, he is presumed to be quite competent to exercise 2nd & 3rd class powers. Similarly if his appointment as Magistrate of 1st class powers he is considered quite competent to exercise 1st class powers. In such cases consultation with his Chief Court is quite unnecessary. Similarly such appointments are made after consultation with his Chief Court.

17) It is usual to grant 2nd class powers, & in exceptional circumstances to grant 1st class powers to officers of less experience than mentioned above, but if in the opinion of the appointment authority a Magistrate 2nd or 3rd class, it is intended that his recommendation of his Chief Court is necessary for his exercise of higher powers must depend upon his

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D 5985

REVENUE & JUDICIAL SECRETARY R-
FEB 1925

Consult: Rev & Chief Secretts
Sec
8.2.25
JHS

To the Rev Secrtt)

(1) The Revenue Branch can undertake to issue the order of investing the Asst Collrs & Dy. Asst Collrs, with III class powers, at the time of their appointments.

(2) In cases of their transfers the situation is different because it is the Rev. Comr. that orders them and the Revenue Branch receives only a copy of the notfn.

JHJ. 12/2/25
(Revs. Secy.)

Secy 15/2/25

Sanction
20 — No such intimation is necessary.
JHJ 16/2/25

Constl Branch)

Secy 17/2/25

Submitted
Sec
16/2/25

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~~Under Appointments Department~~
~~Mr Chas Mr Wood and Mead~~
~~Sect~~
~~Under~~.

Please note Board will
in Imperial Funders
Funders also confirmed
the use of appointments
Papers circulated for the
Cape Br. (In similar
way with Persian Circular
with Parl Br must be necessary)
Supt CB. Please
CB. Will prepare
Answ. papers

21/2

CB.

Dumps Sketch.

Telegram 1½ months

21/3/23
4/4/23

Treasury approval
Copies sent.

9/4

~~Secretary~~ Secretary

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209
9.4.23

The Q.M.G. is all right. I think
that not interesting. Will Circulate
Papers in June

Yes

Is not - I think it is
necessary to send to Br. 11/4
Circular, as it is not for our Br.
I think so

Yes

G.R.S. III—3]

CB 2320

Routine Notes.

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B

J. M. No 4962-3 issued on 14.4.23

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Official Memorandum.

Rev. 4962-3
C.B-232-22-1 ... 27/4/23

Under the present distribution of work in the Genl. & Rev. Sectt., appointments, transfers and postings of Assistant Commissioners and of all officers on Rs.500 and above are dealt with in the Confl. Br. but orders investing such officers with ~~suitable~~ magisterial powers are issued in the Protection Branch. Experience has shown that this procedure causes some avoidable delay in the investing of powers. With a view to ~~remedy this defect~~ avoid delay in investing such officers with magisterial powers the following procedure ~~should be~~ adopted in future :-

(1) In the case of officers appointed or transferred as Special Magistrates and City Magistrates, the appointment itself implies the exercise of certain powers. The Government makes the appointment after full consideration of the competence of the officer to exercise magisterial powers of the class with which his appointment is generally associated. Therefore the magisterial powers to be exercised by such officers should also be specified in the notification announcing their appointment.

(2) In cases of officers who have to exercise magisterial powers by virtue of their substantive appointments in other Departments, chiefly the Revenue, there can be no objection to Government in-

vesting them with the powers they have exercised before or with 3rd class powers, if ~~he has~~ they have not exercised any magisterial powers ~~at all~~ presently. In such cases also the officers should be invested with suitable powers in the notfn. announcing their appointment or posting.-

(3) On the above two classes of cases, consultation with the Chief Court for investing of magisterial powers is necessary. The Protection Branch of the Sectt. may however be consulted in ~~doubtful~~ cases of doubt

(4) All proposals to invest officers already exercising magisterial powers with enhanced powers or with appellate powers, etc. will as heretofore be submitted to Govt. by the District Magistrate through the Chief Court in accordance with G.O.No.G.3066-74/Cts.170-18-6 dated 7th August 1919 and ~~they~~ shall ~~will~~ be dealt with in the Protection Branch.

By order,

Chief Secretary to Govt.

To

Protection Branch.

Revenue Branch.

~~& other branches of the Sectt.~~

23/3/23